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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/757,004	01/14/2004	Russell Earl Morris	1001.17	3316

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EXAMINER
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SANDY, ROBERT JOHN

ART UNIT	PAPER NUMBER
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3677

DATE MAILED: 09/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/757,004

Applicant(s)

MORRIS ET AL.

Examiner

Robert J. Sandy

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-6, 8, 9, 11, 12 and 14-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 4 and 8 is/are rejected.
- 7) ☒ Claim(s) 1-3, 5, 6, 9, 11, 12 and 14-16 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 6/23/05 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

*This final Office action is responsive to the reply filed on 23 June 2005.*

### *Drawings*

The drawings were received on 23 June 2005. These drawings are approved. Therefore, drawing objection(s) indicated in the prior Office action has(have) been withdrawn.

### *Specification*

The amendment filed no 23 June 2005 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows:

“ In the rigid connection, the upper planar surface fits snugly into the lower planer surface forming an interference type fit (44 into 42). Alternatively, the upper planar surface can be secured to the lower planer surface by gluing ultrasonic welding, or by using mechanical connections, such as screwing or riveting the surfaces together at the midpoint. In the flexible connections the upper and lower planar surfaces can be connected in a variety of manners. The upper and lower planar surfaces can be connected by a slightly less tight fit than in the rigid connection (44 into 42). The less tight fit allows for some tolerance between the parts, thereby allowing the arms to flex around joint. The upper and lower planar surfaces can have a flexible connection based on material selection. The upper and lower planar surfaces can be made of a flexible plastic that allows for "spring-like" movement of the arms relative to the mechanical connection. Alternatively, a spring can be added between the upper and lower planar surfaces, wherein each end of the spring connects the upper and lower planar surfaces, thereby forming a flexible mechanical connection.

The originally filed disclosure fails to provide support for the above. For example, there has been no support provided for “the upper planar surface can be secured to the lower planer surface by gluing ultrasonic welding”, “screwing or riveting”, “The upper and lower planar surfaces can be connected by a slightly less tight fit. The less tight fit allows for some tolerance

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between the parts, thereby allowing the arms to flex around joint.”, and “The upper and lower planar surfaces can be made of a flexible plastic that allows for "spring-like" movement of the arms relative to the mechanical connection. Alternatively, a spring can be added between the upper and lower planar surfaces, wherein each end of the spring connects the upper and lower planar surfaces, thereby forming a flexible mechanical connection.”

Applicant is required to cancel the new matter in the reply to this Office Action.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 4 and 8 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The original disclosure has failed to provide an enabling disclosure defining the “mechanical means”, “a rigid mechanical connection”, and “flexible hinge” in order for one of ordinary skill in the art to make the claimed apparatus.

### ***Claim Objections***

Claim 4 is objected to because of the following informalities: In claim 4, line 1, there is no antecedent basis for " the planar surface of each clamp" Claim 1 established that the ‘substantially stiff lower clamp’ has “a first lower planar surface” and “an upper planar surface”. Claim 1 does not establish a *planar surface* for the “upper clamp”. Appropriate correction is required.

Claims 1-3,5,6,9,11,12 and 14-16 are objected to in view of the New Matter rejection set forth in this Office action.

***Allowable Subject Matter***

An indication of the allowability of at least claim 1 cannot be determined until the New matter objection set for the in this Office action is resolved satisfactorily.

***Conclusion***

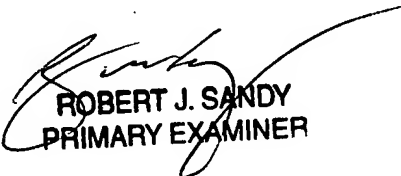
Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert J. Sandy whose telephone number is 703-305-7413. The examiner can normally be reached on M-F (7:30-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J.J. Swann can be reached on 703-306-4115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
**ROBERT J. SANDY**  
**PRIMARY EXAMINER**